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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 131st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 17 November 1992, at 3 p.m.

Chairman: Mr. VOYAME

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* The summary records of the second part (closed) and third part (public) of the meeting appear as documents CAT/C/SR.131/Add.1 and CAT/C/SR.131/Add.2.

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Supplementary report of Mexico (CAT/C/17/Add.3) (continued)

1. At the invitation of the Chairman, Mr. Heller, Mr. Carvalho de Plasa and Mr. Ruiz y Avila (Mexico) took places at the Committee table.

2. Mr. SORENSEN welcomed the establishment in Mexico of a National Human Rights Commission and the designation of a National Day against Torture. Referring to paragraph 19 of the report, he noted that in point of fact the new Mexican Act to Prevent and Punish Torture did not use the exact wording of article 1 of the Convention. Although it stated that "The offence of torture is committed by a public servant who, by virtue of his office, inflicts on another person severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession or punishing him for an act he or a third person has committed or is suspected of having committed", it did not cover cases where suffering was inflicted in order to intimidate or exert pressure on a person, or for any other reason based on some form of discrimination. Yet at the present time, the main purpose of torture was not usually to extort confessions and information but rather to destroy the personality of the person being tortured. Was that gap in Mexican law intentional or was it simply the result of an oversight?

3. He then referred to paragraph 65 of the report, which stated that in many cases involving complaints of torture there was no evidence or indication of the alleged torture, and that many forms of torture left no visible mark that might merit a medical certificate. Yet the research done during the past 10 years had made it possible to learn a great deal about torture - about the places where it was practised, about methods of torture, the types of persons who were usually tortured, and about the symptoms of torture victims. By conversing for a long while with a person who had been tortured and on the basis of a medical examination, a physician specialized in the practices used was now able to uncover reliable proof or indications of torture. Traces and effects of torture could indeed be detected, but it took time. It was important that the Mexican delegation should convey that message to the authorities of its country.

4. Lastly he noted, in connection with the application of article 10 of the Convention that, although the Mexican Government was making considerable efforts to train law enforcement personnel, its training of medical personnel still left much to be desired. Perhaps that was one of the reasons why such personnel was unable to recognize the signs and symptoms of torture. It was of vital importance that doctors should be informed about methods of torture, means of diagnosis and possibilities of rehabilitating torture victims. It would be well if a group of doctors specialized in that field could assist the National Human Rights Commission. Better training for doctors was a way of combating impunity. Moreover, police officers, without going so far as making diagnoses, should be able to identify torture victims and direct them to competent personnel.

5. Mr. BEN AMMAR, referring to article 2 of the Convention, said that States parties should take effective measure to prevent acts of torture in their territory. However, despite the impressive number of measures adopted and institutions established to combat torture, the practice was still widespread in Mexico. That surely constituted an acknowledgement of failure; acts of torture and ill-treatment were not prevented with sufficient vigour, those responsible were not punished adequately and torture victims did not receive proper reparation. The number of cases of torture had admittedly declined in comparison with the number of offenses reported, but that did not mean that there had been a decline in the number of actual cases. What explained that ineffective action in combating torture? What did the Mexican authorities intend to do to achieve tangible results? The political will of Mexican officials was not in doubt, but it seemed that the Government was failing to control the police in particular.

6. He requested further information about the National Human Rights Commission. Did it have branches in various regions? Could it express opinions and make proposals? Was its composition really representative? Did it have the right to bring proceedings or did cases have to be referred to it by the Government?

7. Mr. BURNS noted that whereas Mexico had one of the most elaborate legal systems available to a modern State for combating torture, State officials subjected Mexican citizens to some of the most bestial practices in the world. That paradox was possibly due to a number of factors. First, it was striking that there was no clear-cut separation between the police and investigating bodies on the one hand and prosecuting bodies on the other. Moreover, it appeared that confessions occupied an important place in the system of evidence, and for that reason the police felt obliged to obtain confessions. One ironic example of that endemic practice was that State officials prosecuted for having practised torture themselves complained that they were forced to confess under torture. Another serious problem was that torture and ill-treatment were often inflicted with impunity; the Government could, it would seem, do something about that, and he expressed the hope that in time the Government would succeed in bringing the situation as regards torture under control and reverse the present trend.

8. The CHAIRMAN, without raising any questions concerning the application of articles 5 to 9 of the Convention, simply noted that the Convention appeared to apply directly to Mexico according to the monist theory governing the application of treaties to Mexico. He was, moreover, surprised that, despite that country's excellent institutions and the Government's obvious political will, the situation as regards torture was not better. For that reason, the Committee should try to determine how it could help the Mexican State to achieve the goals of the Convention. After expressing appreciation for the quality of the report, he invited the Mexican delegation to reply to the questions put by members of the Committee.

9. Mr. HELLER (Mexico) said that the Mexican Government lacked neither political will nor institutional machinery, and noted that the activities of the National Human Rights Commission which had been established in June 1990 were described in paragraphs 56 to 79 of the report. He simply wished to add that the National Commission was a completely independent body that could be

approached by any citizen in the event of human rights violations. It prepared biannual reports and was empowered to formulate public recommendations for the competent authorities. In that way, it played a major role in combating impunity. It was a national body but possessed branches in the various states and regions of Mexico, and consisted of eminent personalities representative of various professional activities and policies. Its activities were interrelated with those of the ombudsman, a large number of social bodies and the non-governmental organizations.

10. If the results already achieved in efforts to curb torture were to be evaluated correctly, they should be viewed from a long-term standpoint. The impact of new machinery and new measures could not be felt immediately, and it was wrong to say that nothing was being done in Mexico or that the measures being taken were ineffective. Account must be taken of historical developments, social conditions and the difficulty of changing behaviour patterns. The Mexican State's commitment to the task of putting an end to torture was beyond question. Mexico had been one of the first States to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, noting that at the present time 67 States were parties to that Convention, he expressed the hope that more States would accede to it.

11. His Government was prepared to provide any additional information called for by the Committee on the specific points and cases mentioned by several members. Further details were obviously available as the report had been prepared in June. Moreover, a large amount of information of interest to the Committee would be found in the fourth biannual report of the National Human Rights Commission (December 1991-June 1992), which described the scope and nature of its activities. It contained information on the 4,503 complaints received during the corresponding quarter, a detailed account of the 110 recommendations made during that quarter and an indication of what had been done to follow them up (recommendations applied, accepted, partially applied, etc.), information on cases settled by amicable agreement or mediation, action taken against State officials, violations of the rights of journalists, as well as the presentation of programmes concerning disappeared persons or the prison system, for example. A recommendation might not be applied immediately for practical reasons as, for example, if it concerned the enlargement of a prison. In any event, the Mexican authorities were not standing idly by but were encountering resistance, particularly at the local political level. Local bodies and officials did not always find it easy to accept the idea of central State supervision and to be made accountable for their actions. The reports of the National Human Rights Commission, and particularly its special reports, constituted a way of bringing pressure to bear on those responsible for torture and ill-treatment by stimulating the awareness of the public at large.

12. He then summarized the situation as regards arrest warrants in 1992: 79 warrants had been requested in connection with 26 recommendations and 48 had been issued, no request had been rejected and 31 warrants had been used; 14 were still pending. Those were hard facts. As for arrests, of 165 actions brought since 1990, 66 cases had been settled, 42 were being heard, 9 had been dismissed and 48 were still being studied.

13. It would therefore be incorrect to say that nothing was being done. On the contrary, things were going well, especially as the context was extremely complex. Not only legislation, but also mentalities had been modified, namely, those of the police and politicians who were under pressure from public opinion. Referring to the enforcement of sentences, he observed that proceedings took a long time and took as example recommendation 15.91 concerning a certain Ricardo Lopez who had been tortured and had died as a result. The events in question had taken place in July 1990 and it was only on 19 October 1992 that those guilty had been sentenced; they were at present serving their sentence of 44 years' imprisonment for homicide and abuse of authority.

14. He therefore considered that subtle distinctions had to be made in reaching conclusions. It was the first time that Mexico was making such efforts to ensure respect for human rights and there was no turning back. Its political resolve was firm and sight should not be lost of the changes that had occurred.

15. Replying to the questions raised concerning journalists, he said that the National Human Rights Commission had drawn up a special programme to examine violations of their rights; the Commission's fourth biannual report contained a very long section on what was being done to deal with each such case. For example, it mentioned the case of Rodolfo Morales, and he explained that the person responsible for his ill-treatment had been sentenced to 15 years' imprisonment. Action was not therefore confined to investigations; there were also prosecutions and sentences.

16. Since reference was quite often made to torture in prison, he pointed out that some of the recommendations of the National Human Rights Commission concerned the improvement of conditions of detention and the construction of new prisons, such as a maximum security prison for particularly dangerous prisoners, mostly drug traffickers.

17. In reply to a question about the precise meaning of the word "consignacion" in Mexican legislation, he explained that it meant initiating a criminal action to establish the responsibility of an individual, and corresponded to the point at which a case was transferred from the Government Procurator's Office to the judicial authorities.

18. The Rapporteur had asked why Mexico had not made the declaration under articles 21 and 22 of the Convention and he explained that the choice in the matter was left up to States, and Mexico had simply exercised it.

19. Replying to points raised by Mr. Lorenzo and Mr. Sorensen, he recalled that the National Human Rights Commission was an independent body that drew up its own programmes. Similarly, it was the Commission that decided whether its classification of cases was sound.

20. He drew attention to paragraph 31 of the Organic Law under which, if a complainant was unable to identify the State officials who had violated his rights, the complaint could be admitted if the subsequent investigation made it possible to establish responsibility.

21. Referring to the question of medical examinations, he explained that a circular from the Procurator-General stated that every detainee had to undergo a medical examination at the time of his arrest. The medical certificate was then sent to the judicial authorities. Moreover, the Office of the Attorney-General of the Republic had issued a series of press communiqués covering 24 points dealing with detention. Point 6 stated that a medical examination would be given at the time of arrest or imprisonment and also upon release. Those provisions were embodied in the codes, and in addition an information campaign had been launched to increase public awareness and to ensure that the Government Procurator's Office did not overstep the bounds of legality. All that information had been disseminated on a wide scale and all individuals were aware of the remedies available to them with a view to the protection of their rights.

22. He said that the Mexican Government was prepared to provide additional information, particularly on the question of the impunity that might be enjoyed by persons responsible for human rights violations.

23. Referring to paragraph 108 of the report concerning training and information, he recalled that a National Day Against Torture had been proclaimed. A great deal still remained to be done in that field, however.

24. Another matter to which the Mexican authorities were very much alive concerned the frontier police. Mexico had a long tradition of welcoming asylum-seekers and avoided refoulement, which was a general principle that had invariably been applied, particularly in respect of Guatemalan refugees.

25. In conclusion, he said that Mexico was forging ahead with determination and that three years ago it had established the necessary machinery, namely, the National Human Rights Commission. At the same time efforts were being made to stimulate general awareness of human rights, which could not be the monopoly of one group alone. It was admittedly difficult for such awareness to take root but efforts along those lines were receiving valuable support from the non-governmental organizations.

26. The CHAIRMAN thanked the Mexican delegation for the large amount of comprehensive information it had supplied.

27. Mr. Heller, Mr. Carvalho de Plasa and Mr. Ruiz y Avila (Mexico) withdrew.

The first part (public) of the meeting rose at 4.20 p.m.